


**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Telefónica Larga Distancia)	
De Puerto Rico, Inc.)	WCB Docket No. 06-1
)	
Petition for Expedited Declaratory Ruling)	
Regarding Section 253 of the Communications)	
Act of 1934, as amended)	
)	

INFORMATIONAL FILING

On March 8, 2006, the Telecommunications Regulatory Board of Puerto Rico adopted the attached order granting the Puerto Rico Telephone Company February 3, 2006 Motion to Dismiss. The Board determined that the record in this proceeding should be preserved in the event that a similar, pertinent case arises in the future.

Respectfully submitted,

By: 
Veronica M. Ahern
Robert F. Reklaitis
Leslie Paul Machado
Nixon Peabody LLP
401 Ninth Street, N.W., Suite 900
Washington, DC 20004-2128
(202) 585-8000

***Attorneys for the Telecommunications
Regulatory Board of Puerto Rico***

March 21, 2006

**COMMONWEALTH OF PUERTO RICO
TELECOMMUNICATIONS REGULATORY BOARD
OF PUERTO RICO**

**TELEFONICA LARGA DISTANCIA
DE PUERTO RICO, INC., et al.**

Plaintiffs

vs.

**PUERTO RICO TELEPHONE
COMPANY, INC.**

Defendant

CASES NOS:

JRT-2005-Q-0121

JRT-2005-Q-0128

JRT-2003-Q-0297

JRT-2004-Q-0068

RESOLUTION AND ORDER

In this Resolution and Order we consider the following documents:

1. *Puerto Rico Telephone Company, Inc. Motion to Dismiss* filed on February 3, 2006.
2. *Motion Regarding Puerto Rico Telephone Company, Inc.'s Withdrawal of the Proposed Single Zone Plan and PRTC's Motion to Dismiss* filed by Telefónica Larga Distancia de Puerto Rico Inc. ("TLD") on February 17, 2006.
3. *Puerto Rico Telephone Company, Inc. Motion for Reconsideration* submitted on March 1, 2006. In this pleading PRTC asks the Board to reconsider its February 8, 2006 Resolution and Order and to set aside the sanction imposed therein.
4. *Motion of WorldNet Telecommunications, Inc. Requesting Award of Attorneys' Fees ("Motion for Attorneys' Fees")* filed on March 1, 2006.

Background:

On February 3, 2006, defendant, Puerto Rico Telephone Company, Inc. ("PRTC") filed *Puerto Rico Telephone Company, Inc. Motion to Dismiss*. PRTC requests the Board to dismiss the consolidated complaints subject of the instant proceeding, and asks that, upon dismissal of these cases and all complaint filed therein, the record in the captioned proceeding be closed.

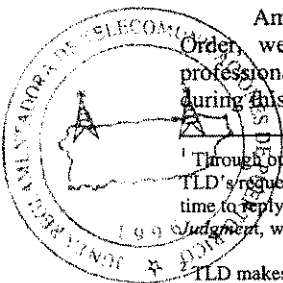
The petition for dismissal is the result of PRTC's cancellation of Section 15 of PRTC's Basic Tariff Schedule, as appears on pages #-15-1 and E-15-2 of PRTC's Local Tariff ("Single Zone Tariff") filed with this Board on April 6, 2005. PRTC avers cancellation of the Single Zone Tariff renders this proceeding moot, and as such, the record should be closed.

On February 17, 2006, Telefónica Larga Distancia de Puerto Rico, Inc. filed *Motion Regarding Puerto Rico Telephone Company, Inc.'s Withdrawal of the Proposed Single Zone Plan and PRTC's Motion to Dismiss ("Motion Regarding Withdrawal")*.¹ In said pleading TLD asserts the proceeding in this case has been long, intense and costly for the parties and requests that the Board take action regarding several issues that it believes to be pertinent to the Single Zone controversy.

Among the various issues submitted to the Board, which merit reference in this Order, we note TLD's request that the Board impose on PRTC reimbursement of professional fees, including attorneys' fees, expert witness fees and expenses incurred during this proceeding². TLD specifically refers to motions to compel submitted during the

¹ Through our Resolution and Order issued on February 8, 2006 and notified on February 22, 2006 we granted TLD's request for extension of time to oppose PRTC's Motion to Dismiss. However, the request for additional time to reply to PRTC's *Opposition to Motion to Strike or, in the alternative Opposition to Motion for Summary Judgment*, was denied.

² TLD makes reference, to Rule 8.14(m) of this Board's *General Practice and Procedure Rules* and Rule 34 of Puerto Rico Rules of Civil Procedure.



discovery process, which TLD believes to be the result of PRTC's alleged continued resistance to producing requested information through discovery.

TLD further urges the Board to require PRTC, upon filing of a complaint alleging its rates are not cost based, to be required to submit all cost information necessary to establish *prima facie* that the subject rates are cost-based before requiring complainants to engage in any further resources. TLD claims that under current procedures, while PRTC would have the burden of establishing a cost basis for its rates upon the filing of a complaint, the reality is that interested parties are discouraged from challenging the rates because of the time, expense and resources required.

In addition, TLD requests the Board to open a public proceeding to determine the appropriate cost methodology to be used by PRTC to establish a cost-basis for its retail rates, and suggests we examine whether the cost methodology adopted in this case may have continued use in a future similar proceeding. TLD asks that we consider whether the cost methodology adopted in this proceeding could be used to evaluate whether any future proposed PRTC rates are cost-based. TLD expresses a reasonable concern that the filing of a new tariff "may again embroil the parties in a struggle over the proper cost methodology".

In conclusion, TLD requests the Board to maintain the record of this proceeding open for as long as necessary, or in any event, for at least eighteen (18) months in order to make part of these proceedings any effort of PRTC to implement a same or similar tariff as the one subject of these complaints. This action, estimates TLD, may permit the parties to take advantage of discovery already obtained and allow for a more efficient resolution of any similar controversy.

Discussion:

At the outset, it is clear TLD is not opposing PRTC's dismissal, rather requesting this Board to adopt safeguards or conditions that it believes may be appropriate in the future. We take notice of TLD's proposed conditions. However, at this time, we believe said specific actions to be unwarranted. We agree with TLD's statement that this case was long, intense and costly, and the parties and the Board devoted considerable efforts in its litigation. Notwithstanding, even when we refrain from adopting specific considerations proposed by TLD, we are cognizant that a similar proceeding may arise at this Board in the near future provoking parties to engage in additional litigation.

For this reason we conclude, that even when we grant the dismissal, we determine the record in this proceeding should be preserved. In consequence, if and when a similar, pertinent case arises, this Board, at its discretion, will be in a position to take advantage of those portions of said record that may assist the Board, and the parties, in any such litigation.

As to TLD's request for sanctions pursuant to Rule 8.14(m) of this Board's Rules and Regulations, and considering the discretion granted to this Board, we believe the same are not justified. Similarly, under this Board's discretionary power, we believe WorldNet's request for attorneys' fees is unwarranted and unjustified.

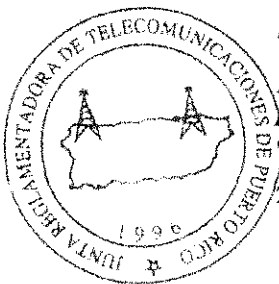
Finally, we conclude PRTC's request for reconsideration of our February 8, 2006 Resolution and Order is unpersuasive. Consequently, we sustain our position as expressed therein.

Pursuant to the above, this Board RULES AND ORDERS:

To PRTC's Motion to Dismiss: Granted. Henceforth, this case is hereby dismissed.

However, as stated above, this Board determines the record in this proceeding should be preserved for future use, at this Board's discretion, if and when a similar and pertinent controversy arises.

To TLD's request for sanctions to PRTC: Denied.



**To Puerto Rico Telephone Company, Inc. Motion for
Reconsideration: Denied.**

To WorldNet's Request for Attorneys Fees: Denied.

The party adversely affected by the present *Resolution and Order* may, within twenty (20) days of the filing of the same, present a motion to reconsider the *Resolution and Order*.

The Board shall consider the motion within fifteen (15) days of its filing. If it rejects the motion or fails to act upon it within said fifteen (15) days, the term to petition for review shall commence to run anew as of the notification of said denial or as of the expiration of the fifteen (15) day term, whichever may be the case. If a determination is made upon the motion, the term to petition for review shall begin to run as of the date of filing of a copy of the notification of the Resolution of the Board resolving the motion definitely, which resolution should be issued and filed within ninety (90) days after the motion was filed. If the Board fails to take action on the motion for reconsideration within ninety (90) days of the filing of the motion it shall lose jurisdiction over the same and the term in which to petition for judicial review shall commence upon the expiration of said ninety (90) day term unless the Board, for just cause shown and within the ninety (90) day term, extends said term for a period no longer than thirty (30) days.

If the party affected does not request reconsideration, or if the same is adverse, pursuant to Section 4.2 of the Uniform Procedure Act (Law 170, of August 12, 1988, as amended), said party may present a petition for review before the Appellate Court of Puerto Rico having venue, within thirty (30) days from the date of filing of the Board's final order or resolution. The party shall notify the Board and all the parties of the filing of the petition for review within the term to request such review. The notice shall be sent by mail.

NOTIFY the present Resolution and Order to the parties' representatives of record:

LCDO. EDWIN QUIÑONES
QUIÑONES SÁNCHEZ & GUZMÁN, P.S.C.
PO BOX 71405
SAN JUAN, PR 00936-8505

WORLDNET
LCDO. JUAN P. RIVERA ROMÁN
PO BOX 7498
PONCE, PR 00732-7498

PRTC
LCDO. ROBERTO GARCÍA
PO BOX 360998
SAN JUAN, PR 00936-0998

LCDO. RAFAEL ESCALERA
REICHARD & ESCALERA
PO BOX 364148
SAN JUAN, PR 00936-04148

DOUGLAS MEREDITH
JOHN STAURULAKIS, INC.
547 OAKVIEW LANE
BOUNTIFUL, UT 84010

CENTENNIAL PUERTO RICO LICENSE CORP.
LCDO. OMAR MARTÍNEZ
PO BOX 71514
SAN JUAN, PR 00936-8614

JOAQUÍN MÁRQUEZ, ESQ.
DRINKER BIDDLE & REATH LLP
1500 K ST., NW, SUITE 1100
WASHINGTON, DC 20005

(SPRINT)
LCDO. MIGUEL J. RODRÍGUEZ MARXUACH
PO BOX 16636
SAN JUAN, PR 00908-6636

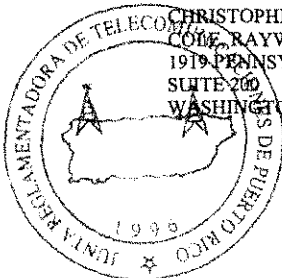
LARRY FREEDMAN, ESQ.
FLEISCHMAN & WALSH LLP
1919 PENNSYLVANIA AVE. NW, SUITE 600
WASHINGTON D.C. 20006

RICHARD RUBIN, ESQ.
LEBOEUF, LAMB, GREEN & MACAE LLP
1875 CONNECTICUT AVE. N.W.
WASHINGTON D.C. 20009

AT&T DE PUERTO RICO
LCDO. ARNALDO MIGNUCCI
HOME MORTGAGE PLAZA, SUITE 704
268 AVE. PONCE DE LEÓN
HATO REY, PR 00918

FRANCISCO A. RULLÁN, ESQ.
WEISS SEROTA HELFMAN PASTORIZA COLE
& BONISKE
3107 STIRLING RD, SUITE 300
FORT LAUDERDALE, FL 33312

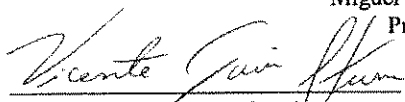
CHRISTOPHER W. SAVAGE, ESQ.
COLE, RAYWID & BRAVEMAN, L.L.P.
1919 PENNSYLVANIA AVE. N.W.
SUITE 200
WASHINGTON, DC 20006



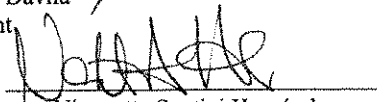
So the Board approved on March 8, 2006.



Miguel Reyes Dávila
President



Vicente Aguirre Iturrino
Associate Member



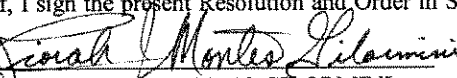
Nixyvette Santini Hernández
Associate Member

CERTIFICATE OF SERVICE

I hereby CERTIFY that the foregoing document is a true and exact copy of the Resolution and Order approved by the Board on March 8, 2006. I further CERTIFY that today, March 15, 2006, I mailed a copy of the Resolution and Order to the parties' attorneys of record, and I have proceeded to file the instant order.

In witness whereof, I sign the present Resolution and Order in San Juan, Puerto Rico, on March 15, 2006.




CIORAH J. MONTES GILORMINI
Secretary of the Board